

**City of Gardner  
Conservation Commission**



**Minutes of the Meeting of  
March 28, 2016, 6:30 p.m.  
Second Floor Meeting Room, City Hall Annex**

**Members present:**

David Beauregard, Duncan Burns, Jane Cullen, Chairman Greg Dumas, Donna Lehtinen, and David Orwig. Also present was Conservation Agent Jeff Legros.

**Members absent:**

Norman Beauregard

**PUBLIC HEARINGS**

None

**MEETING**

**Order of Conditions**

None

**Minutes**

**6:30** A motion was made by D. Beauregard to approve the Meeting Minutes of February 22, 2016. The motion was seconded by D. Orwig and voted unanimously all in favor.

**6:31** A motion was made by D. Burns to approve the Meeting Minutes of March 14, 2016. The motion was seconded by D. Lehtinen and voted unanimously all in favor.

**Guests & Visitors**

**Mr. R.J. D'Amato**, R.J.'s Tree and Yard; **Nancy Collett**, Resident 68 Kendall Pond Road West.

**Presentations**

None

**Request for Determination of Applicability**

**6:32** The Gardner Conservation Commission held a joint Public Meeting under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the **Request for Determination of Applicability** filed by **Nancy Collett**, 68 Kendall Pond Road West, to determine whether a proposed project at 68 Kendall Pond Road West, is subject to the Wetlands Protection Act, and whether the proposed work is subject to the jurisdiction of the Gardner Wetlands Protection Ordinance. The proposed project will involve the removal of

several trees. The proposed work is within 100-feet of Kendall Pond and as close as approximately 38-feet to 50-feet.

Mr. R.J. D'Amato and Ms. Nancy Collett described the project to include the removal of three (or more) trees within the buffer zone of the freshwater bank of Kendall Pond.

The Commission asked if any of the trees proposed for removal were within the 30-foot "No Disturb" zone. Mr. D'Amato answered affirmatively.

- 6:45** A motion was made by J. Cullen to issue a Positive Determination # 4 and #5. The Motion was seconded by D. Burns and voted unanimously all in favor.

The proposed work will require a Notice of Intent. Agent Legros exchanged contact info with Mr. D'Amato and offered to assist him with the Notice of Intent filing process.

- 6:47** The Gardner Conservation Commission held a joint Public Meeting under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the **Request for Determination of Applicability** filed by **TEC Associates**, on behalf of **Providence and Worcester Railroad (P&W)**, related to work located along the P&W Railroad Right-of-Way, to be conducted under a Vegetation Management Plan (VMP). The Commission shall determine whether the boundaries of resource areas depicted on the plan and/or maps are accurately delineated.

Agent Legros and Commission member D. Burns described the site visit with TEC and P&W to review the wetland delineations along the entire section of track related to the RDA and VMP. Agent Legros distributed maps of the management area and documentation describing the exemption for Right-of-Way management activities under the Wetlands Protection Act.

- 6:50** A motion was made by J. Cullen to issue a Positive Determination #2, confirming the resource delineation, and Positive Determinations #3 and #5. The motion was seconded by D. Burns and voted unanimously all in favor.

- 6:50** The Gardner Conservation Commission opened the joint Public Meeting under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the **Request for Determination of Applicability** filed by **Pan Am Railways**, represented by Keith Morris, Environmental Consultant, related to work located along the Pan Am Railways Right-of-Way, to be conducted under a Vegetation Management Plan (VMP). The Commission shall determine whether the boundaries of resource areas depicted on the plan and/or maps are accurately delineated.

Agent Legros notified the Commission on behalf of the applicant that at this time the resource areas had not yet been marked and a site visit could not be conducted until such time. At the applicants request he recommended that the Commission continue this RDA meeting until the tracks have been marked and a site visit conducted.

- 6:55** A motion was made by J. Cullen to continue the RDA (#2016-3-8) meeting for Pan Am Railways until the resource areas have been properly delineated along the tracks and a site visit has been conducted by the Conservation Agent to confirm those delineations. The motion was seconded by D. Burns and voted unanimously all in favor.

#### **Request for Certificate of Compliance**

- 6:55** **National Grid**, represented by Coneco Engineers and Scientists, DEP File #160-0298, Gardner Switch Yard Relocation (off Route 140).

A communication and supporting documentation photographs were received by Coneco on behalf of National Grid demonstrating that the eroding bank within the site has been fully repaired. The memo and photos were distributed to the Commission for review. The repairs were satisfactory to Agent Legros and the Commission and the documents were entered into the file. Agent Legros recommended approval of the request and issuance of a Certificate of Compliance.

- 6:57** A motion was made by D. Beauregard to approve the request and issue a Certificate of Compliance. The motion was seconded by D. Lehtinen and voted unanimously all in favor.

#### **Enforcement Order**

- 6:58** Sunshine Realty Trust, Conrad Donell Trustee, Sapphire Park at Pearl Street and Shawn Avenue (*Continued from Meeting of March 14, 2016*):

Agent Legros updated the Commission on recent communications with Mr. David Crossman, Wetland Scientist. Mr. Crossman confirmed that he will submit the Notice of Intent (NOI) by April 1<sup>st</sup>. Agent Legros said that he suggest a meeting to review the NOI prior to the next meeting. He asked the Commission if the survey or GPS locations of the re-flagging should be part of the plan included within the Notice of Intent submission. Chairman Dumas and the Commission agreed that the re-flagging should be geo-located on the plan as the re-flagging was required by the enforcement order.

Agent Legros will suggest a meeting with Mr. Donell and Mr. Crossman to review the enforcement order, NOI, and expectations and responsibilities.

## **New Business**

- **Conservation Commission Annual Report 2015**  
Agent Legros passed around the Draft Annual Report for review. He will distribute the final draft to the Commission for approval at the next meeting.
- **UMass Wetlands Assessment Project**  
Agent Legros notified the Commission of the request from the UMass Extension program of a random sample location selected in Gardner on City property for assessment under Scott Jackson's statewide comprehensive monitoring and assessment program for wetlands. UMass will notify the Commission when they are conducting the survey and will share plant identification information with the Commission.
- **Otter River Blue Trail Signs**  
Signs have been installed by the DPW for the Millers River Watershed Council as part of their partnership with the City and Conservation Commission to promote and enhance public access to waterways and the Otter River Blue Trail. The signs will direct people to the Blue Trail along Route 2A (Airport Road), Route 101 (Plant Road), and Route 68 (Bridge Street). Signs will also be located at the Otter River Conservation Area and Cummings Otter River Conservation Area.
- **City-wide Earth Day Clean-up**  
The City will host an Earth Day clean-up on Saturday, April 23<sup>rd</sup>. Activities will be led by Mary Delaney, Purchasing Director. The Conservation Commission will lead a clean-up team at the Otter River Conservation Area and encourage the public to pick up along city trails, parks, and open spaces. Agent Legros will pass along details to the Commission as they become available. The public can be directed to the Community Events Calendar for more information.

## **Old Business**

- **Pitcherville Road, Hubbardston – Non-hazardous fill (potential project)**  
Agent Legros updated the Commission on the status of the potential project and informed them of a MESA filing with Natural Heritage and Endangered Species Program. Chairman Dumas asked for the contact info to request a copy of the MESA filing. Agent Legros will forward the information.
- **Arbor Day Seedling Programs (trees)**  
Agent Legros proposed a plan to purchase trees for a riparian restoration along the Pond Brook adjacent to the Youth Baseball Field.

**7:37** A motion was made by J. Cullen to approve funds from the Brooks Gift Account for the purchase of native trees and shrubs from the Mass Association of Tree Wardens and Foresters Arbor Day Seedling Program to restore the riparian stream bank along the Pond Brook. The motion was seconded by D. Orwig and voted unanimously all in favor.

- **Notice of Purchase and Sale Agreement under Massachusetts General Laws, Chapter 61, Section 8 concerning the sale of land classified as forest land owned by Chester E. Pultorak. Notice of agreement to sell to land to Conrad J. Donell.**

Agent Legros conducted a meeting with Planning Director Beauregard, Mayor Hawke, and Solicitor Flick, as well as Janet Morrison, Land Conservation professional, to discuss the Pultorak property and the City's rights and options.

- **Commission Budget – FY 2017 (and finances)**

Agent Legros discussed his review of the budget with the Commission and expressed his confidence that the City funds allocated to Professional Development and Travel and Office Supplies for Commission operation were sufficient at this time. He also confirmed that WPA fees funds can and should be utilized for Commission member training and professional development activities directly related to Wetlands Protection.

Chairman Dumas recommended a meeting with City Auditor or Clerk to discuss the Commission accounts to better understand their function and purpose. Commission member D. Beauregard offered to coordinate a meeting with City Auditor.

### **Adjournment**

**8:00** Motion to adjourn was made by D. Burns. The motion was seconded by D. Lehtinen and voted unanimously all in favor of adjournment.

Respectfully submitted,

Jeffrey D. Legros, Conservation Agent

All materials used at the meeting are available for viewing at the office of the Conservation Agent, Room 202 of the City Hall Annex.

#### **Minutes are available as follows:**

- Minutes are available on the City of Gardner website ([www.gardner-ma.gov](http://www.gardner-ma.gov)) under Conservation Commission.
- By appointment or request in Conservation Agent's office, Room 202 of the City Hall Annex
- Community Development & Planning office, Room 201 of the City Hall Annex